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dying declarations of a man impressed with a firm belief of future accountability are entitled to greater credence than those of a man with no sense of religious responsibility.¹⁰

PERSONAL JURISDICTION OVER RESIDENTS BY SUBSTITUTED SERVICE. — The situations in which jurisdictional difficulties are presented may generally be classified as follows: (1) A court in state A attempts directly to affect the title to property in state B; (2) a court in state A attempts to affect the title to property in state B when a person with an existing right in the title is in state A; (3) a court in state A attempts directly to affect the rights of a person in state B; (4) a court in state A attempts to affect the rights of a person in state B who owns property in state A.

In (1) the court clearly has no jurisdiction.¹ In (2), however, it can incidentally affect the title by compelling action on the part of a person over whom it has jurisdiction.² (4) is analogous to (2), since the court, by acting on the title to property over which it has jurisdiction, can incidentally affect the rights of a non-resident.³ Proceedings under this class may be either strictly *in rem*,⁴ or *quasi in rem*.⁵ (3) corresponds to (1), but is not so easily disposed of. The general rule is that personal jurisdiction without consent can be acquired only by personal service within the state. It is almost universally applied to non-resident foreigners.⁶ The assumption by the English courts of jurisdiction over foreigners on substituted service when authorized by statute, is due to the supremacy of Parliament, and is in little danger of imitation in this country.⁷ Even in England the jurisdiction of a foreign court in such a case is denied.⁸ Acquiring jurisdiction over foreign corporations by serving their agents within the state is not an exception to the general rule, since it is based on consent,⁹ which is a recognized basis for personal jurisdiction.¹⁰ The principle that personal jurisdiction, once acquired, continues through all proceedings which form part of the same litigation is also no exception.¹¹

There is, however, a dispute whether there is not a real exception in the case of residents of the state. In many decisions on the question of personal jurisdiction over non-residents, the language is broad enough

¹⁰ *Nesbitt v. State*, 43 Ga. 238; *Goodall v. State*, 1 Ore. 333; *Carver v. United States*, 164 U. S. 694, 697.

¹ See WHARTON, *CONFLICT OF LAWS*, §§ 273, 274, 278.

² *Massie v. Watts*, 6 Cranch (U. S.) 148. See 20 HARV. L. REV. 382.

³ *Arndt v. Griggs*, 134 U. S. 316.

⁴ *Huling v. Kaw Valley Railway & Improvement Co.*, 130 U. S. 559.

⁵ *Hogle v. Mott*, 62 Vt. 255. See *Pennoyer v. Neff*, 95 U. S. 714. In all proceedings *in rem* reasonable notice is necessary to satisfy constitutional requirements. *Roller v. Holly*, 176 U. S. 398.

⁶ *Pennoyer v. Neff*, *supra*; *Eliot v. McCormick*, 144 Mass. 10; *Buchanan v. Rucker*, 9 East 192.

⁷ See 24 HARV. L. REV. 318.

⁸ *Schibsy v. Westenholz*, 6 Q. B. 155; *Buchanan v. Rucker*, *supra*.

⁹ *St. Clair v. Cox*, 106 U. S. 350; *Gibbs v. Queen Insurance Co.*, 63 N. Y. 114.

¹⁰ *Jones v. Merrill*, 113 Mich. 433; *Copin v. Adamson*, 9 Ex. 345. See *Rousillon v. Rousillon*, 14 Ch. D. 351, 371.

¹¹ *Burns v. Belknap*, 22 Vt. 419; *Fitzsimmons v. Johnson*, 90 Tenn. 416.

to include residents who are outside the state,¹² and a few squarely decide that jurisdiction can be acquired over residents in no other way than over non-residents.¹³ In accord with this view is a recent decision declaring unconstitutional a statute which gave personal jurisdiction over residents of the state who were personally served outside its territory. *Raher v. Raher*, 129 N. W. 494 (Ia.). These cases illustrate the modern tendency of the law to emphasize the importance of the territorial at the expense of the personal relation between the individual and the state, though many personal duties to the state are still recognized.¹⁴ This tendency is doubtless sound; but it is submitted that the personal relation is still potent enough to enable the state to stipulate by what method its citizens or residents,¹⁵ even when temporarily outside the territory, should become amenable to the orders of its courts, and that constitutional requirements are satisfied by providing for some reasonable form of notice. This view seems to be supported by the weight of authority, it being generally held that any reasonable form of substituted service gives personal jurisdiction over domestic corporations¹⁶ and residents¹⁷ of the state, whether they are within its territory or outside.

CONTRIBUTION BETWEEN CO-SURETIES ON PARTIALLY CONCURRENT OBLIGATIONS. — Stated broadly, the equitable¹ doctrine of contribution is, that when one person has discharged an obligation, which another had likewise assumed, he is entitled to be reimbursed proportionably to the risk assumed by each.² The application of this rule where the obligations are coextensive presents a simple problem in arithmetic.³ But where the two instruments are only partially concurrent a more difficult question is presented, involving a determination of what portion of the broader obligation is applicable to the common risk.

The cases dealing with this problem may be divided into two classes: first, where the only element of loss is one for which both sureties are

¹² See *Pennoyer v. Neff*, *supra*.

¹³ *Moss v. Fitch*, 212 Mo. 484; *De la Montanya v. De la Montanya*, 112 Cal. 101; *Smith v. Grady*, 68 Wis. 215.

¹⁴ See SALMOND, JURISPRUDENCE, 195.

¹⁵ In this respect no distinction is drawn between citizens and domiciled residents. See *Huntley v. Baker*, 33 Hun (N. Y.) 578.

¹⁶ *Clearwater Mercantile Co. v. Roberts*, etc. *Shoe Co.*, 51 Fla. 176; *Continental Nat. Bank v. Thurber*, 74 Hun (N. Y.) 632.

¹⁷ *Harryman v. Roberts*, 52 Md. 64, 76; *Henderson v. Staniford*, 105 Mass. 504; *Huntley v. Baker*, *supra*; *Ouseley v. Lehigh Valley Trust & Safe-Deposit Co.*, 84 Fed. 602; *Douglas v. Forrest*, 4 Bing. 686; *Becquet v. MacCarthy*, 2 B. & Ad. 951, 958. As to what is not reasonable notice, see *Bardwell v. Collins*, 44 Minn. 97. The position taken in the principal case that a distinction is to be drawn between actual service outside the state and service by leaving at the defendant's residence, in favor of the latter, seems untenable. See *Anheuser-Busch Brewing Assn. v. Peterson*, 41 Neb. 897.

¹ See AMES, CASES ON SURETYSHIP, 537, n. 1.

² *Armitage v. Pulver*, 37 N. Y. 494; *Thurston v. Koch*, 4 Dall. (U. S.) 348. See also *Deering v. The Earl of Winchelsea*, 2 B. & P. 270; *Pendlebury v. Walker*, 4 Y. & C. 424, 441.

³ *Citizens Ins. Co. v. Hoffman*, 128 Ind. 370; *Farmers' Feed Co. v. Scottish Union Ins. Co.*, 173 N. Y. 241.